

AMENDED IN SENATE APRIL 27, 2005

AMENDED IN SENATE APRIL 11, 2005

**SENATE BILL**

**No. 431**

**Introduced by Senator Battin**

February 17, 2005

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An act to ~~add Section 390.2 to~~ *add and repeal Section 390.2 of the Public Utilities Code, relating to electricity.*

LEGISLATIVE COUNSEL'S DIGEST

SB 431, as amended, Battin. Electricity: repowering of facilities.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law provides that subject to applicable contractual terms, energy prices paid to nonutility power generators by an electrical corporation based on the commission's "short run avoided cost energy methodology" are required to be determined by specified law. Existing law authorizes any nonutility power generator using renewable fuels that entered into a contract with an electrical corporation specifying fixed energy prices for electrical output prior to December 31, 2001, to negotiate an additional 5 years of fixed energy payments at a level to be determined by the commission.

This bill would require the commission to develop and implement a program to foster the repowering of existing facilities for the generation of electricity from renewable energy resources by May 1, 2006, that imposes specified requirements on electrical corporations in connection with their contractual relations with owners of those facilities.

*This bill would provide that the above provisions are repealed on January 1, 2010.*

Under existing law, a violation of the Public Utilities Act or an order or direction of the commission is a crime.

The provisions of this bill would be part of the act and an order or other action of the commission would be required to implement its provisions. Because a violation of the bill's provisions or of an order or decision of the commission would be a crime, this bill would impose a state-mandated local program by creating new crimes.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 390.2 is added to the Public Utilities  
2 Code, to read:

3 390.2. ~~(a) To foster the repowering of existing facilities for~~  
4 ~~the generation of electricity from~~ *enable eligible* renewable  
5 energy resources, *as defined in Section 399.12, to be repowered*  
6 *and to lower ratepayer costs,* the commission shall, by May 1,  
7 2006, ~~develop and implement a program that includes all of the~~  
8 ~~following:~~ *require each electrical corporation to offer the*  
9 *following to the owner or owners of an eligible renewable energy*  
10 *resource that will be repowered under a contract executed*  
11 *pursuant to this section:*

12 ~~(a) Require an electrical corporation to offer the owner or~~  
13 ~~owners of an existing facility for the generation of electricity~~  
14 ~~from an eligible renewable energy resource, as defined in Section~~  
15 ~~399.12, that desire to repower the facility either of the following~~  
16 ~~contractual options:~~

17 ~~(1) An amendment to the current contract for electricity~~  
18 ~~generated by the facility that includes terms and conditions that~~  
19 ~~encourage repowering.~~

20 ~~(2) A new or replacement~~

*(1) A replacement contract for electricity generated by the facility that includes terms and conditions that encourage repowering, with a duration equal to the existing contract.*

~~(b) Requires an electrical corporation to allow the owner or owners of an existing facility for the generation of electricity from an eligible renewable energy resource, an~~

*(2) An option to extend the term of an existing contract to purchase electricity generated by the facility for up to 10 years, except that the extended term of the amended replacement contract may not exceed 20 years from the commercial operation date of the repowered equipment.*

~~(c) Requires an electrical corporation to employ reasonable~~

*(3) Reasonable flexibility in the interpretation of existing contract terms to maximize repowering, including the allowance of reasonable adjustments to project size facility capacity and location. The total capacity of the repowered facility may not exceed the total capacity of the existing facility by more than 25 percent.*

~~(d) Requires an electrical corporation to offer pricing options to an owner or owners of an existing facility for the generation of electricity from an eligible renewable energy resource to encourage repowering, including commission-determined fixed~~

*(4) Commission-determined fixed prices based upon either a forecast of short-run avoided costs, or another avoided cost benchmark determined by the commission to be more just and reasonable, or including an avoided cost benchmark resulting from a competitive bid, that will result in lower per unit prices for electricity charged to ratepayers relative to the then-current standard offer contract terms.*

*(b) The Energy Commission shall not certify or award renewable energy credits for electricity generated under a contract executed pursuant to this section. Deliveries under a contract executed pursuant to this section shall be tracked through the accounting system described in subdivision (b) of Section 399.13 and shall count towards the renewables portfolio standard obligations of the purchasing electrical corporation.*

*(c) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.*

1 SEC. 2. No reimbursement is required by this act pursuant to  
2 Section 6 of Article XIII B of the California Constitution because  
3 the only costs that may be incurred by a local agency or school  
4 district will be incurred because this act creates a new crime or  
5 infraction, eliminates a crime or infraction, or changes the  
6 penalty for a crime or infraction, within the meaning of Section  
7 17556 of the Government Code, or changes the definition of a  
8 crime within the meaning of Section 6 of Article XIII B of the  
9 California Constitution.

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